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Attorneys for Plaintiff
FINJAN, INC.

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA, SAN JOSE DIVISION

FINJAN, INC., a Delaware Corporation,

Plaintiff,

v.

CISCO SYSTEMS, INC., a California
Corporation,

Defendant.

Case No. 5:17-cv-00072-BLF-SVK

PLAINTIFF FINJAN, INC.'S UNOPPOSED
ADMINISTRATIVE MOTION TO CHANGE
TIME PURSUANT TO LR 6-3(a)

Hon. Beth Labson Freeman
Ct: 3, 5th Floor

I. INTRODUCTION

Plaintiff Finjan, Inc. (“Finjan”), having reviewed and complied with Civil Local Rule 6-3, hereby moves the Court for an order expediting the time for the Court to hear Finjan’s Motion for Leave to Supplement Its Exhibit List (“Motion for Leave”) (Dkt No. 628). Finjan respectfully requests that the Court hear Finjan’s Motion for Leave, if it deems necessary, on June 11, 2020, June 18, 2020, or at some other time prior to the commencement of trial on June 22, 2020 that the Court deems appropriate. Filed concurrently herewith and pursuant to Civil Local Rule 6-3(a)(1)-(6) is the Declaration of Megan A. Chacon in Support of Plaintiff Finjan, Inc.’s Unopposed Administrative Motion to Change Time Pursuant to Civil L.R. 6-3(a) (“Chacon Declaration”) and a proposed order. Cisco does not oppose the instant motion. *See* Dkt No.628-2 at 1.

II. ARGUMENT

A. Legal Standard

Civil Local Rule 6-3 sets forth specific requirements for a motion to change time. The moving party must file three documents: (1) a motion of no more than five pages; (2) a proposed order; and (3) a declaration. Civ. L.R. 6-3(a). The declaration must set forth “with particularity” the reasons for the requested enlargement of time, the efforts to obtain a stipulated time change, “the substantial harm or prejudice that would occur if the Court did not change the time,” any prior time modifications in the case, and the effect of the modification on the case schedule. Civ. L.R. 6-3(a)(1)-(6). Courts in this District have considered the timing of trial in finding good cause for expediting consideration of certain motions. *See, e.g., Fujitsu Ltd. v. Belkin Intern., Inc.*, No. 10-cv-03972-LHK, 2012 WL 6096664, at *2 (N.D. Cal. Dec. 7, 2012) (referencing previously granted motion to shorten time where moving party argued that “good cause existed to accelerate briefing schedule so that the Court could rule before Defendants’ damages experts testified at trial.”).

B. Good Cause Exists for Expediting the Time for the Court to Hear Finjan’s Motion for Leave

Finjan respectfully submits that good cause exists to expedite the time for the Court to hear, if it deems necessary, Finjan’s Motion for Leave prior to the commencement of trial on June

22, 2020. As set forth in the Chacon Declaration filed herewith, Finjan's new counsel diligently sought to work with Cisco to come to an agreement to supplement the parties' respective exhibit lists in light of the May 1, 2020 confirmation of the trial date being push back three weeks from June 1, 2020 to June 22, 2020 due to the ongoing COVID-19 crisis. *See* Chacon Decl. at ¶¶ 2-3. Despite meeting and conferring on Finjan's proposal, and Finjan's alternatively proposed Motion for Leave, the parties were unable to reach agreement and Finjan was forced to file its Motion for Leave on May 15, 2020. *See* Chacon Decl. at ¶ 3. The timing of Finjan's filing makes June 25, 2020 the earliest possible hearing date for which Finjan could notice its Motion for Leave in accordance with the Civil Local Rules and this Court's Standing Order for Civil Cases. *See* Chacon Decl. at ¶ 4. As soon as counsel for Cisco confirmed it would not agree to Finjan's supplementation proposal, and thus Finjan would need to file its Motion for Leave, counsel for Finjan informed counsel for Cisco of its intention to file the instant Motion to Change Time. *See* Chacon Decl. at ¶ 5. Cisco's counsel subsequently confirmed Cisco would not oppose Finjan's Motion to Change Time. *See id.*

Finjan's Motion for Leave presents issues that will impact Finjan's presentation of its case at trial. *See* Dkt No. 628. The exhibits Finjan seeks to add relate to key issues in this case, such as Finjan's history, the relationship between Finjan and Cisco, damages, and validity. *Id.* In its motion, Finjan respectfully submits that good cause exists for its request due to at least the relevance of the supplemental exhibits, the lack of the lack of any undue prejudice caused by their addition to Finjan's exhibit list five weeks prior to the commencement of trial, the recent substitution of new counsel for Finjan, and the Court having not yet issued a final pretrial order. *See* Chacon Decl. at ¶ 6; *see also* Dkt No. 628. Finjan's Motion for Leave should be heard prior to the commencement of trial otherwise substantial harm and prejudice would befall Finjan. Finjan would be hindered in its trial preparation and significant uncertainty would arise as to whether Finjan may be allowed to offer into evidence its supplemental exhibits that relate to key disputed issues in both its case in chief and rebuttal case at trial. *See* Chacon Decl. at ¶ 4, 8.

III. CONCLUSION

Finjan diligently sought to reach an agreement relating to the supplementation of its trial

1 exhibit list, but instead was forced to file its Motion for Leave (Dkt No. 628) immediately before
 2 the instant motion. The timing for hearing Finjan's Motion for Leave as provided for by the Civil
 3 Local Rules and this Court's Standing Order for Civil Cases would cause substantial harm and
 4 prejudice to Finjan were it not expedited. Finjan, thus, respectfully requests relief from the Court
 5 in the form of an expedited hearing of Finjan's Motion for Leave, if the Court deems necessary, on
 6 June 11, 2020, June 18, 2020, or at another time the Court deems appropriate.

7
 8 Dated: May 15, 2020

Respectfully Submitted,

9 By: /s/ Megan A. Chacon

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26 Attorneys for Plaintiff FINJAN, INC.

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the above and foregoing document has been served on May 15, 2020 to all counsel of record who are deemed to have consented to electronic service via the Court's CM/ECF system. Any other counsel of record will be served by electronic mail and regular mail.

/s/ Megan A. Chacon
Megan A. Chacon
chacon@fr.com